

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6915

BILL NUMBER: HB 1077

NOTE PREPARED: Jan 10, 2022

BILL AMENDED: Jan 10, 2022

SUBJECT: Firearms Matters.

FIRST AUTHOR: Rep. Smaltz

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Handgun Licensing*– The bill repeals the law that requires a person to obtain a license to carry a handgun in Indiana. It specifies that certain persons who are not otherwise prohibited from carrying or possessing a handgun are not required to obtain or possess a license or permit from the state to carry a handgun in Indiana. The bill prohibits certain individuals from knowingly or intentionally carrying a handgun.

Unlawful Carrying of a Handgun– The bill creates the crime of "unlawful carrying of a handgun" and specifies the penalties for committing this crime. It allows particular individuals to carry a handgun who do not meet the requirements to receive a handgun license and are not otherwise prohibited to carry a handgun in limited places.

Obtaining a Handgun License– The bill allows a resident of Indiana to obtain in certain circumstances a license to carry a handgun in Indiana.

Firearm Theft– The bill makes theft of a firearm a Level 5 felony.

The bill defines certain terms, makes conforming amendments, and it repeals obsolete provisions.

Effective Date: July 1, 2022.

Explanation of State Expenditures: *Handgun Licensing*– This provision would reduce the number of license applications the Indiana State Police (ISP) would have to process in a given year. Only people seeking reciprocity in another state to carry a handgun would be likely to apply for a license in the future under the

bill. The ISP could reassign staff currently used for handgun licensing to other priorities within the agency, or eliminate some of the positions if they are no longer needed.

Unlawful Carrying of a Handgun– Removing the handgun license violations in current law and replacing them with unlawful carrying of a handgun would likely reduce the number of persons committed to state correctional facilities based on current arrest and prosecution practices. Department of Correction (DOC) incarceration rates would depend on the number of arrests made in future years for unlawful carrying of a handgun. Additionally, the allowance of persons to carry a handgun that would not otherwise qualify for a handgun license (under current law) would likely further reduce the number of persons arrested, convicted, and sent to a DOC facility in future years.

For FY 2021, the marginal cost for medical care, food, and clothing is approximately \$4,333 annually, or \$11.67 daily, per offender, assuming offenders can be housed in existing facilities with no additional correction staff.

Firearm Theft– This provision would increase the penalty for firearm theft from a Level 6 felony to a Level 5 felony. Analysis of all Level 5 theft (IC 35-43-4-2) sentencing outcomes from FY 2013-FY 2021 found a very minimal difference in comparison to current sentencing outcomes for Level 6 theft of a firearm. Therefore, the DOC would likely be minimally impacted from the proposed felony classification change.

Additional Information– Analysis of DOC intake data from FY 2013 through FY 2021 found 2,657 individuals charged with a felony handgun license violation. The following tables illustrate pre- and post-sentence experiences and average years of sentence served in jail or a DOC facility.

Table A. Pre- and Post-Trial Sentencing of Individuals Violating Handgun Licensing Laws With a Felony Charge (FY 2013 - FY 2021)				
<u>Total Offenders Sentenced</u>	<u>Percentage With Pre-Trial Jail Credit*</u>	<u>Percentage Committed to DOC Post-Trial**</u>	<u>Percentage In Jail Post-Trial***</u>	<u>Percentage In Post Sentence Probation</u>
2,657	77%	45%	10%	79%
<p>*The percentage of offenders who received credited time against their sentence that was served in jail prior to and during their trial and sentencing phase.</p> <p>**These are offenders serving time on their sentence in a DOC facility after they are sentenced.</p> <p>***The “post-trial jail percentage” provides a rough estimate of the number of offenders who finished their sentences in jail rather than going to a DOC facility to finish their sentence.</p>				

Table B. Average Sentence Years for Individuals Violating Handgun Licensing Laws with a Felony Charge (FY 2013 - FY 2021)

	<u>Post-Trial Jail Time</u>	<u>DOC Commitment Time</u>	<u>Post Sentence Supervision</u>
<u>Average Years</u>	0.7	2.5	2.9
<p>Note: Not all persons serving a sentence in this table necessarily spent time in a DOC facility, so these averages should not be summed for total sentence estimate. Most offenders will serve all or part of their sentence in county jail. Some offenders will be sent on to a DOC facility to complete their sentence.</p> <p>The post trial average sentence for a handgun violation carried out in jail was about 8.4 months. Average time served in a DOC facility was 2.5 years with probation afterwards lasting on average almost three years.</p>			

Explanation of State Revenues: *Handgun Licensing*– Given that the state fee for handgun licenses is currently \$0, there would be no revenue reduction at the state level as a result of this provision.

Firearm Theft– It is likely there would be little to no change in revenues from the felony reclassification under the bill. Both a Level 5 and Level 6 felony have a penalty fine not to exceed \$10,000. Any change to fines collected would likely be minimal. Fines are placed in the common school fund, while court fees are placed in the General Fund.

Unlawful Carrying of a Handgun– There would likely be a reduction in court fees and judgments collected for fewer criminal trials involving violations for unlawful possession of handguns than currently for violations of the existing handgun license statute. Any reduction would depend on the amount of enforcement given to the proposed law. The state’s share of court fees is deposited into the state General Fund. Criminal fines are placed in the Common School Fund.

Additional Information– When a criminal case is filed in a circuit or superior court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered is deposited into the state General Fund. In addition, some or all of the following revenue is deposited into the state General Fund: automated record keeping fee (\$20), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$3).

Explanation of Local Expenditures: *Handgun Licensing*– Under this provision, local law enforcement agencies would experience a significant reduction in workload to process fingerprint and other paperwork from license applicants. Future applicants would only be seeking a license for reciprocity purposes.

Unlawful Carrying of a Handgun– County jails would likely see a reduction in persons held as a result of this provision. The average cost per day to house a person is approximately \$54 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 16 county jails across Indiana during federal FY 2017.

Firearm Theft– These provisions would likely minimally impact local jail expenditures.

Explanation of Local Revenues: *Handgun Licensing*– Given that the local fee for handgun licenses is currently \$0, there would be no revenue reduction at the local level as a result of this provision.

Unlawful Carrying of a Handgun— Counties’ share of court fee revenue from criminal trials would likely be reduced if fewer prosecutions occur under the proposed unlawful carry of a handgun provision.

Additional Information— The county general fund receives 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$5), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: ISP; DOC.

Local Agencies Affected: Local law enforcement agencies, trial courts.

Information Sources: Indiana State Police Handgun License Statistics; Abstracts of Judgment; U.S. Department of Justice Marshals Service.

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